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Attorney for Defendant Song Ja Cha

**FILED**  
**DISTRICT COURT OF GUAM**

MAY 09 2008 R.D.

**JEANNE G. QUINATA**  
**Clerk of Court**

DISTRICT COURT OF GUAM

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UNITED STATES OF AMERICA,	(	Criminal Case No. 08-00008
	)	
Plaintiff,	(	RESPONSE OF DEFENDANT
	)	SONG JA CHA TO UNITED
vs.	(	STATES MOTION TO REVOKE
	)	DEFENDANTS' RELEASE ON
SONG JA CHA, et al.,	(	RECOGNIZANCE
	)	
Defendants.	(	

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Attached to the United States Motion to Revoke Defendants' Release on Recognizance is the "DECLARATION" of Assistant United States Attorney Rosetta L. San Nicolas. (Filed May 5, 2008.) This so-called declaration, however, is not subscribed under penalty of perjury, as permitted by 28 U.S.C. § 1746; it does not say, "I declare under penalty of perjury that the foregoing is true and correct." (28 U.S.C. § 1746(2).) In other words, the United States Motion to

**ORIGINAL**

(RESPONSE OF DEFENDANT SONG JA CHA TO UNITED STATES MOTION  
TO REVOKE DEFENDANTS' RELEASE ON RECOGNIZANCE)  
Criminal Case No. 08-00008

Revoke Defendants' Release on Recognizance is supported—not by the equivalent of an affidavit—but by mere allegations.

9 Guam Code Ann. § 28.20(a)(1) does not expressly prescribe a culpable mental state: “A person is guilty of promoting prostitution who . . . owns, controls, manages, supervises or otherwise keeps, alone or in association with others, a place of prostitution or a prostitution enterprise . . . .” “[I]f the definition of a crime does not expressly prescribe a culpable mental state, a culpable mental state is nonetheless required and is established *only if a person acts intentionally, knowingly or recklessly*.” (9 Guam Code Ann. § 4.40 (emphasis added).) 9 Guam Code Ann. § 4.30 provides:

(a) A person *acts intentionally*, or with intent, with respect to his conduct or to a result thereof when it is his *conscious purpose* to engage in the conduct or cause the result.

(b) A person *acts knowingly*, or with knowledge, with respect to his conduct or to attendant circumstances when he *is aware* of the nature of his conduct or that those circumstances exist. A person *acts knowingly*, or with knowledge, with respect to a result of his conduct when he *is aware* that his conduct is practically certain to cause the result.

(RESPONSE OF DEFENDANT SONG JA CHA TO UNITED STATES MOTION  
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Criminal Case No. 08-00008

(c) A person *acts recklessly*, or is reckless, with respect to attendant circumstances or the result of his conduct when he *acts in awareness* of a substantial risk that the circumstances exist or that his conduct will cause the result and his disregard is unjustifiable and constitutes a gross deviation from the standard of care that a reasonable person would exercise in the situation.

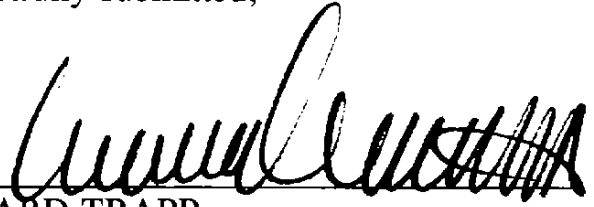
(Emphasis added.)

Defendant Song Ja Cha denies that she committed the offense alleged in the United States Motion to Revoke Defendants' Release on Recognizance.

Dated, Hagåtña, Guam,

May 9, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Howard Trapp', is written over a horizontal line.

HOWARD TRAPP  
For HOWARD TRAPP INCORPORATED  
Attorney for Defendant  
Song Ja Cha

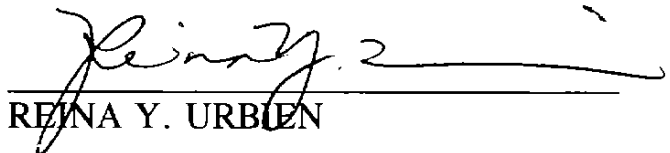
(DOC/RspGovMtnRevokeRlse.SJCha)

## DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for Defendant Song Ja Cha herein, and that on May 9, 2008, I served the document to which this declaration is annexed on Rosetta L. San Nicolas, Esq., Assistant United States Attorney, the attorney for Plaintiff herein, by leaving a copy thereof at Office of the United States Attorney for Guam and the Northern Mariana Islands, Suite 500, Sirena Plaza, 108 Hernan Cortez Avenue, Hagåtña, Guam, Ms. San Nicolas's last known address, with a person in charge thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 9, 2008, at Hagåtña, Guam.

  
REINA Y. URBIEN

## DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for Defendant Song Ja Cha herein, and that on May 9, 2008, I served the document to which this declaration is annexed on Patrick G. Civile, Esq., the attorney for Defendant In Han Cha herein, by leaving a copy thereof at 330 Hernan Cortez Avenue, Suite 200, Hagåtña, Guam, Mr. Civile's last known address, with a person in charge thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 9, 2008, at Hagåtña, Guam.


  
REINA Y. URBIEN

## DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for Defendant Song Ja Cha herein, and that on May 9, 2008, I served the document to which this declaration is annexed on John T. Gorman, Esq., the attorney for Defendant Freda Eusen herein, by leaving a copy thereof at First Hawaiian Bank Building, 400 Route 8, Suite 501, Mongmong, Guam, Mr. Gorman's last known address, with a person in charge thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 9, 2008, at Hagåtña, Guam.


  
REINA Y. URBIEEN

## DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for Defendant Song Ja Cha herein, and that on May 9, 2008, I served the document to which this declaration is annexed on Joaquin C. Arriola, Jr., Esq., the attorney for Defendant Saknin A. Weria herein, by leaving a copy thereof at Suite 201, C and A Professional Building, 259 Martyr Street, Hagåtña, Guam, Mr. Arriola's last known address, with a person in charge thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 9, 2008, at Hagåtña, Guam.

  
REINA Y. URBIEEN